

Dear Senators VANORDEN, Wintrow, and
Representatives VANDER WOUDE, Erickson, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Health and Welfare:

IDAPA 16.03.13 - Consumer-Directed Services (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 16-0313-2401);

IDAPA 16.03.14 - Rules Governing Hospitals (ZBR Chapter Repeal) - Proposed Rule (Docket No. 16-0314-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 12/06/2024. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 01/03/2025.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Legislative Drafter - Kyle Slominski
DATE: November 19, 2024
SUBJECT: Department of Health and Welfare

IDAPA 16.03.13 - Consumer-Directed Services (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 16-0313-2401)

IDAPA 16.03.14 - Rules Governing Hospitals (ZBR Chapter Repeal) - Proposed Rule (Docket No. 16-0314-2401)

Summary and Stated Reasons for the Rule

Docket No. 16-0313-2401: The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.13. The Department notes that this is a Zero-Based Regulation chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the rule changes are intended to perform a comprehensive review of the chapter designed to streamline or simplify the rule chapter.

Docket No. 16-0314-2401: The Department submits notice of proposed rulemaking at IDAPA 16.03.14. The proposed rule would repeal the chapter. The Department states that hospital licensing requirements exist in Idaho Code and that hospitals must also be certified through the Centers for Medicaid and Medicare Services (CMS) to be eligible for federal funds. The Department intends to pursue a legislative proposal to consolidate the licensing process using the CMS standards as a benchmark for obtaining a hospital license.

Negotiated Rulemaking / Fiscal Impact

Docket No. 16-0313-2401: Negotiated rulemaking was conducted. The Department states that there will be no negative fiscal impact to the General Fund.

Docket No. 16-0314-2401: Negotiated rulemaking was not conducted. The Department states that negotiated rulemaking was not necessary as this is a chapter repeal. The Department states that there will be no negative fiscal impact to the General Fund.

Statutory Authority

Docket No. 16-0313-2401: The rulemaking appears to be authorized pursuant to sections 56-202, 56-203, 56-250 through 56-257, and 56-266, Idaho Code.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Docket No. 16-0314-2401: The rulemaking appears authorized pursuant to sections 56-202 and 39-1307, Idaho Code.

cc: Department of Health and Welfare
Adam Jones

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.13 – CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, and Sections 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCE Via WebEx
Tuesday, September 17, 2024 3:00-4:00pm (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m972f893ca3d602dc4789422a7d9645b8
Join by meeting number Meeting number (access code): 2824 593 1654 Meeting password: afJ7MM3knT8 Meeting password from phone: 23576635
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

VIRTUAL TELECONFERENCE Via WebEx
Friday, September 20, 2024 1:00-2:00pm (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m5a02962a5e30ebdbeded877a70e4f485
Join by meeting number Meeting number (access code): 2822 493 8845 Meeting password: 24TMmJaWM3a Meeting password from phone: 24866529
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

There is no fiscal impact to the state General Fund or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024, Idaho Administrative Bulletin, Volume 24-5, pages 202 through 203.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25th, 2024.

DATED this 22nd day of July, 2024.

Alex J. Adams, PharmD, MPH
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Idaho Department of Health & Welfare
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Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0313-2401
(ZBR Chapter Rewrite)**

16.03.13 – CONSUMER-DIRECTED SERVICES

000. LEGAL AUTHORITY.

~~In accordance with~~ Sections 56-202, 56-203, Sections 56-250 through 257, and Sections 56-260 through 56-266, Idaho Code, ~~the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the provision of consumer-directed services.~~ (3-17-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ These rules are titled IDAPA 16.03.13, “Consumer Directed Services.” (3-17-22)

02. ~~Scope.~~ Consumer-Directed Community Supports (CDCS) is a flexible program option for participants eligible for the Children’s Home and Community Based Services (HCBS) State Plan Option, and Adult and Children’s Developmental Disabilities (DD) waivers. CDCS is not a covered option for participants enrolled in the Children’s Act Early Waiver. The CDCS option allows the eligible participant to: choose the type and frequency of supports they want, negotiate the rate of payment, and hire the person or agency they prefer to provide those supports. (3-17-22)

002. ~~WRITTEN INTERPRETATIONS.~~

~~This agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection.~~ (3-17-22)

003. -- 007. (RESERVED)

008. ~~AUDIT, INVESTIGATION AND ENFORCEMENT.~~

~~In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, “Investigation and Enforcement of Fraud, Abuse, and Misconduct.”~~ (3-17-22)

009. BACKGROUND CHECK REQUIREMENTS.

01. ~~Compliance With Department Background Check.~~ The ~~fiscal employer agent~~ **FEA** must verify that each ~~support broker~~ **SB** and ~~community support worker~~ **CSW**, whose background check has not been waived by the participant, has ~~complied with~~ **received a clearance under** IDAPA 16.05.06, “Criminal History and Background Checks.” ~~When a~~ **A** participant ~~may chooses~~ to waive the background check requirement for a ~~community support worker~~, **CSW**, the **A** waiver must be completed ~~under in accordance with Section 150 of~~ these rules. (7-1-24)()

02. ~~Availability to Work or Provide Service.~~ Participants may review the completed application and allow the ~~community support worker~~ **CSW** to provide services on a provisional basis if no disqualifying offenses under IDAPA 16.05.06, “Criminal History and Background Checks,” are disclosed. (7-1-24)()

03. ~~Additional Criminal Convictions.~~ ~~Once clearances have been received, any additional criminal convictions must be immediately reported by the worker to the participant and by the participant to the Department.~~ (7-1-24)

04. ~~Notice of Pending Additional Convictions, Investigations, or Charges.~~ Once clearances have been received, any ~~additional criminal, adult or child protection convictions, charges or investigations for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints,~~ **additional criminal, adult or child protection convictions, charges or investigations** must be immediately reported by the worker to the participant and by the participant to the Department. (7-1-24)()

05. ~~Providers Subject to Background Check Requirements.~~ ~~A community support worker, CSWs who has have not had the requirement waived by the participant, and a support broker as defined in Section 010 of these rules and SBs.~~ (7-1-24)()

010. DEFINITIONS.

01. ~~Circle of Supports.~~ ~~People who encourage and care about the participant and provide unpaid supports.~~ (3-17-22)

02. ~~Community Support Worker (CSW).~~ An individual, agency, or vendor selected and paid by the participant to provide ~~community support worker~~ **CSW** services. (3-17-22)()

03. ~~Community Support Worker Services.~~ ~~Community support worker services are those identified~~

~~supports listed in Section 110 of these rules. (3-17-22)~~

~~042. Consumer-Directed Community Supports (CDCS). A flexible program option for participants eligible for the Children's Home and Community Based Services (HCBS) State Plan Option, and Adult Developmental Disabilities (DD) waiver. For the purposes of this chapter, consumer directed s Supports include Self-Directed Community Supports (SDCS) and Family Directed Community Supports (FDCS) program options described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-17-22)()~~

~~053. Family-Directed Community Supports (FDCS). A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver and the Children's Home and Community Based Services HCBS State Plan Option described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-17-22)()~~

~~064. Financial Management Services (FMS). Services provided by an FEA, fiscal employer agent that include: (3-17-22)~~

~~a. Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (3-17-22)~~

~~b. Performing payroll services; and (3-17-22)~~

~~e. Handling billing and employment related documentation responsibilities. (3-17-22)()~~

~~075. Fiscal Employer Agent (FEA). An agency that provides financial management services FMS to participants who have chosen the CDCS option. The fiscal employer agent (FEA) is selected by the participant. The duties of the FEA are defined under Section 3504 of the Internal Revenue Code (26 USC 3504). (3-17-22)()~~

~~086. Goods. Tangible products or merchandise that are authorized on the support and spending plan SSP. (3-17-22)()~~

~~097. Guiding Principles for the CDCS Option. Consumer Directed Community Supports is based upon the concept of self-determination and has the following guiding principles: (3-17-22)()~~

~~a. Freedom for the participant to make choices and plan their own life; (3-17-22)~~

~~b. Authority for the participant to control resources allocated to them to acquire needed supports; (3-17-22)~~

~~c. Opportunity for the participant to choose their own supports; (3-17-22)~~

~~d. Responsibility for the participant to make choices and take responsibility for the result of those choices; and (3-17-22)~~

~~e. Shared responsibility between the participant and their community to help the participant become an involved and contributing member of that community. (3-17-22)~~

~~108. Home and Community Based Services (HCBS). HCBS are those l Long-term services and supports that assist eligible participants to remain in their home and community. (3-17-22)()~~

~~09. Medical Necessity (Medically Necessary). A service or item is medically necessary if: ()~~

~~a. It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; ()~~

~~b. There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly; and ()~~

~~c. It meets any applicable Department criteria. Services that do not meet criteria require a prior~~

~~authorization; and~~ ()

~~d. Medical services must be:~~ ()

~~i. Of a quality that meets professionally recognized standards of health care; and~~ ()

~~ii. Substantiated by records including evidence of such medical necessity and quality.~~ ()

~~11. Participant. A person eligible for and enrolled in the Consumer Directed Services Programs.~~ (3-17-22)

~~120. Readiness Review. A review conducted by the Department to ensure that each fiscal employer agent FEA is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules.~~ (3-17-22)()

~~11. Restrictive Intervention. Any intervention that is used to restrict the rights or freedom of movement of a person and includes chemical, mechanical, and physical restraints or seclusion.~~ ()

~~132. Self-Directed Community Supports (SDCS). A program option for adults eligible for the Adult Developmental Disabilities (DD) Waiver described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ (3-17-22)()

~~143. Support and Spending Plan (SSP). A support and spending plan is a document that functions as a participant's plan of care when the participant is eligible for and has chosen a consumer directed service CDCS option. This document identifies the goods, or services, and supports or both, selected by a participant, including those goods, services, and supports available outside of Medicaid-funded services that can help the participant meet desired goals, and the cost of each one of the identified goods and services. The participant uses this document to manage their individualized budget.~~ (3-17-22)()

~~154. Supports. Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker CSW, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support.~~ (3-17-22)()

~~165. Support Broker (SB). An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker S SB services.~~ (3-17-22)()

~~17. Support Broker Services. Services provided by a support broker to assist the participant with planning, negotiating, and budgeting.~~ (3-17-22)

~~186. Traditional Adult DD Waiver Services. A program option for participants eligible for the Adult Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ (3-17-22)()

~~19. Traditional Children's DD Waiver Services. A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ (3-17-22)

~~2017. Traditional Children's HCBS State Plan Option Services. A program option for children eligible for the Children's Home and Community Based Services (HCBS) State Plan Option consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ (3-17-22)()

~~21. Waiver Services. A collective term that refers to services provided under a Medicaid Waiver program.~~ (3-17-22)

~~011. -- 019. (RESERVED)~~

020. RESPONSIBILITY FOR DECISION MAKING.

~~Under this chapter of rules, decisions are to be made as follows: (3-17-22)~~

~~01. Children. The parent or legal guardian is responsible for decisions made on behalf of a child participant. (3-17-22)~~

~~02. Adults. The participant, or legal guardian if one exists, is responsible for decisions made on behalf of an adult participant. (3-17-22)~~

~~0211. -- 099100. (RESERVED)~~

100. CONSUMER DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.

~~The CDCS option requires the participant to have a support broker to assist the participant to make informed choices, participate in a person-centered planning process, and become skilled at managing their own supports. The participant must use a fiscal employer agent to provide Financial Management Services (FMS) for payroll and reporting functions. (3-17-22)~~

101. PARTICIPANT ELIGIBILITY.

~~01. Eligibility Determination of Medicaid and Home and Community Based Services -- DD Requirements. In order to choose the CDCS option, the participant must first be determined Medicaid-eligible and determined to meet existing Adult DD waiver programs or Children's HCBS State Plan Option requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-17-22)()~~

~~02. Participant Agreement Form. The participant, if able, and their legal representative, if one exists, must agree in writing using a Department-approved form to the following: (3-17-22)()~~

~~a. Accept the guiding principles for the CDCS option, as defined in Section 010 of these rules; (3-17-22)()~~

~~b. Agree to meet the participant responsibilities outlined in Section 120 of these rules; (3-17-22)()~~

~~c. Take responsibility for and accept potential risks, and any resulting consequences, for their support choices. If the participant is unable to give consent, this falls to their legal representative; and (3-17-22)()~~

~~d. Acknowledge and follow the applicable HCBS rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits;" Sections 310 through 317. (3-17-22)()~~

~~03. Legal Representative Agreement. The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the CDCS option. (3-17-22)~~

~~03. Participants involuntarily removed from the CDCS option will be ineligible for this option for a period of five years. Re-application will be reviewed on a case-by-case basis and will include consideration of the previous conditions for removal. ()~~

~~102. -- 109. (RESERVED)~~

110. PAID CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS).

~~The pParticipants must purchase Financial Management Services (FMS) and support broker SB services to participate in the CDCS option, except for under the family directed services option where the qualified parent or legal guardian may act as an unpaid support broker. The pParticipants must purchase goods and community supports through the fiscal employer agent an FEA who is providing the FMS. (3-17-22)()~~

01. Financial Management Services FMS. The Department will enter into a provider agreement with a qualified ~~fiscal employer agent FEAs~~, as defined in ~~Section 010~~ of these rules, to provide ~~financial management services FMS for payroll and reporting functions~~ to a participant who chooses the ~~consumer directed CDCS~~ option. (3-17-22)()

02. Support Broker SB Services. ~~Support broker s Services are~~ provided by a qualified ~~support broker SB to assist in making informed choices, participate in a person-centered planning process, and become skilled at managing their own supports such as negotiating and budgeting. SBs have to apply for requalification annually.~~ (3-17-22)()

03. Community Support Worker CSW Services. The ~~community support worker CSWs~~ provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified ~~community support worker CSW~~ must obtain the applicable license or certification. Identified supports include activities that address the participant's preference in both FDCS and SDCS, unless otherwise specified. for: (3-17-22)()

a. Job support for SDCS to help the participant secure and maintain employment or attain job advancement; (3-17-22)()

b. Personal support to help the participant maintain health, safety, and basic quality of life; (3-17-22)

c. Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-17-22)

d. Emotional support to help the participant learn and practice behaviors consistent with their goals and wishes while minimizing interfering behaviors; (3-17-22)

e. Learning support for SDCS to help the participant learn new skills or improve existing skills that relate to their identified goals; (3-17-22)()

f. Transportation support to help the participant accomplish their identified goals; and (3-17-22)()

~~g. Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes their increased independence; and~~ (3-17-22)

~~hg.~~ Skilled nursing support for SDCS identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed registered nurse (RN) or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. (3-17-22)()

04. Medically Necessary Equipment. Adaptive and therapeutic equipment is medically necessary, meets a medical or accessibility need, and promotes increased independence. FDCS may substitute medical necessity for minimizing the participant's need for institutionalization. Items may be covered when: ()

a. Not available through another source; ()

b. Identified in the participant's plan; ()

c. Safe and effective treatment that meets evidence – based treatment criteria; ()

d. Optimal for the participant's health, safety and welfare; ()

e. Least costly alternative that reasonably meets the identified need; ()

f. For the sole benefit of the participant; and ()

- g.** Meets at lease one (1) of the following: ()
- i.** Assist the ability of the participant to remain in the community: ()
- ii.** Enhance community inclusion and family involvement; and ()
- iii.** Decrease dependency on formal support services. ()
- 05. Limitations.** Services have the following limitations: ()
- a.** CDCS Purchased items and services must meet needs related to a developmental disability diagnosis. The use of CDCS and FDCS purchased items by an individual other than the participant is prohibited. The following types of items or services are not covered: ()
- i.** For the convenience of a caregiver; ()
- ii.** Educational; ()
- iii.** Recreational; or ()
- iv.** Vocational except pre-vocational and job supports. ()
- b.** CDCS services may only be rendered by (1) staff to one (1) participant at a time. Staff may not: ()
- i.** Render any other support, service, or supervision, paid or unpaid, to any other individual; or ()
- ii.** Perform multiple services concurrently. ()
- c.** CDCS and FDCS transportation support is limited to one thousand eight hundred (1,800) miles annually, unless otherwise authorized. ()

111. UNPAID COMMUNITY SUPPORTS AND SERVICES.

The Department requires that participants and their ~~support broker SB~~ identify and prioritize the use of any goods, services and supports available outside of Medicaid-funded services ~~through an unpaid volunteer support or service, or those goods, services, and supports~~ that can be provided by an unpaid natural support such as a family member, a friend, a neighbor or other volunteer. (3-17-22)()

112. -- 119. (RESERVED)

120. PARTICIPANT RESPONSIBILITIES.

With the assistance of the ~~support broker SB~~, and the legal representative, if one exists, the participant is responsible for the following: (3-17-22)()

01. Guiding Principles. Accepting and honoring the guiding principles for the CDCS option ~~found in Section 010 of~~ defined in these rules. (3-17-22)()

02. Person-Centered Planning. Directing the person-centered planning process in order to identify and document paid and unpaid support and service needs, wants, and preferences. (3-17-22)

03. Rates. Negotiating payment rates for all paid community supports they want to purchase. They must also ensure ~~ing~~ rates negotiated for supports and services do not exceed the prevailing market rate, ~~and that~~ are cost-effective when comparing them to reasonable alternatives, and including ~~ing~~ the details in the employment agreements. (3-17-22)()

04. Agreements. Completing and implementing agreements for the ~~fiscal employer agent FEA~~, the

~~support broker SB and community support worker CSWs, and submitting the agreements to the fiscal employer agent FEA. These agreements must be submitted on Department-approved forms, and must specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or services; includes a statement signed by the hired worker that they possess the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the HCBS rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits;" and no employer-related claims will be filed against the Department.~~ (3-17-22)()

~~05. Agreement Detail. Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that they possess the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 311 through 317; and no employer-related claims will be filed against the Department.~~ (3-17-22)

~~065. Plan SSP. Developing a comprehensive support and spending plan SSP based on the information gathered during the person-centered planning.~~ (3-17-22)()

~~076. Time Sheets and Invoices. Reviewing and verifying that supports goods and services being billed were provided and indicating that they approve of the bill by signing the timesheet or invoice.~~ (3-17-22)()

~~087. Quality Assurance and Improvement. Providing feedback to the best of their ability regarding their satisfaction with the supports goods and services they receive and the performance of their workers.~~ (3-17-22)()

~~08. Sufficient Staffing. Hiring enough CSWs to ensure services are rendered in a manner for the health and safety of the participant.~~ ()

~~09. Required Classes. The participant must attend classes on Guide Training by the Department and FEA Training.~~ ()

~~121.—129. (RESERVED)~~

~~130. FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.~~

~~01. Requirements. The fiscal employer agent must meet the requirements outlined in its provider agreement with the Department, and Section 3504 of the Internal Revenue Code (26 USC 3504).~~ (3-17-22)

~~02. Limitations. The fiscal employer agent must not:~~ (3-17-22)

~~a. Provide any other direct services to the participant, to ensure there is no conflict of interest; or~~ (3-17-22)

~~b. Employ the guardian, parent, spouse, payee or conservator of the participant or have direct control over the participant's choice.~~ (3-17-22)

~~131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.~~

~~The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services include:~~ (3-17-22)

- ~~01. Payroll and Accounting. Providing payroll and accounting supports to participants that have chosen the Consumer Directed Community Supports option; (3-17-22)~~
- ~~02. Financial Reporting. Performing financial reporting for employees of each participant. (3-17-22)~~
- ~~03. Information Packet. Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring their own staff. (3-17-22)~~
- ~~04. Time Sheets and Invoices. Processing and paying time sheets for community support workers and support brokers, as authorized by the participant, according to the participant's Department authorized support and spending plan. (3-17-22)~~
- ~~05. Taxes. Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-17-22)~~
- ~~06. Payments for Goods and Services. Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-17-22)~~
- ~~07. Spending Information. Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-17-22)~~
- ~~08. Quality Assurance and Improvement. Participating in Department quality assurance activities. (3-17-22)~~

~~132~~21. -- 134. (RESERVED)

135. SUPPORT BROKER (SB) REQUIREMENTS AND LIMITATIONS.

01. ~~Initial Application to Become a Support Broker~~ **SB Requirements.** Individuals interested in becoming a an SB support broker must complete the Department approved application to document that they: (3-17-22)()
- a. ~~Are~~Be eighteen (18) years of age or older; (7-1-24)()
 - b. Have skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (7-1-24)
 - c. Have at least two (2) years verifiable experience with the target population and ()
 - ~~d.~~ k Knowledge of services and resources in the developmental disabilities field. (7-1-24)()
02. **Application Exam.** Applicants that meet the minimum requirements under this rule will receive training materials and resources to prepare for the application exam. Under ~~Family Directed Community Supports (FDCS), children's support broker SBs~~ must attend the an initial training. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements under these rules, will be eligible to enter into a provider Medicaid Support Broker a Agreement with the Department. (7-1-24)()
03. **Required Ongoing Training.** All ~~support broker SBs~~ must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of support broker SB services. Up to six (6) hours ~~of the required twelve (12) hours~~ may be obtained through independent self-study. The remaining hours must consist of classroom training. (3-17-22)()
04. **Termination.** The Department may terminate the provider Medicaid Support Broker a Agreement in accordance with Idaho Code 56-209h(6) or when the ~~support broker SB:~~ (3-17-22)()

- a. Is no longer able to pass a background check under ~~Section 009 of~~ these rules. (7-1-24)()
- b. Puts the health or safety of the participant at risk by failing to perform job duties under the employment agreement. (7-1-24)
- c. Does not receive and document the required ongoing training and requalification. (3-17-22)()
- 05. **Limitations.** The ~~support broker~~ SB must: (7-1-24)()
 - a. Not provide, or be employed by an agency that provides CSW services ~~paid community supports under Section 150 of these rules~~ to the same participant; and (7-1-24)()
 - b. For ~~Self-Directed Community Supports (SDCS)~~, meet the conflict of interest standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-24)()
 - c. SBs are limited to reimbursement for three thousand one hundred twenty (3,120) hours per calendar year across all participants served unless otherwise authorized by the Department. ()

06. Time Sheets and Invoices. SBs must submit accurate time sheets and invoices for reimbursement or be subject to recoupment. ()

136. SUPPORT BROKER (SB) DUTIES AND RESPONSIBILITIES.

- 01. **Support Broker Initial Documentation.** Prior to beginning employment for the participant, the ~~support broker~~ SB must type and complete and submit to the participant, the packet of information provided by the ~~fiscal employer agent~~ FEA and submit it to the ~~fiscal employer agent.~~ This packet must include documentation of: (3-17-22)()
 - a. ~~Support broker~~ SB application approval by the Department; (3-17-22)()
 - b. A completed ~~criminal history background~~ check, including clearance in accordance with ~~Section 009 of these rules and IDAPA 16.05.06, "Criminal History and Background Checks";~~ and (3-17-22)()
 - c. A completed employment agreement in accordance with these rules, ~~with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services.~~ The negotiated rate must not exceed the maximum hourly rate for ~~support broker~~ SB services established by the Department. (3-17-22)()

02. Documentation. SB must complete all documentation required by the Department including documentation of the date and type of service provided and billed for. All documentation for services will be retained by the SB for five (5) years. ()

- 023. **Required-Support Broker Duties.** ~~Support broker~~ SB services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the ~~support broker~~ SB must: (3-17-22)()
 - a. Assist in facilitating the person-centered planning process as directed by the participant and consistent with the HCBS rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits.;" ~~Sections 313, 316, and 317;~~ (3-17-22)()
 - b. Develop a written ~~support and spending plan~~ SSP with the participant that includes the paid and unpaid supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. ~~This plan~~ The SSP must be authorized by the Department; (3-17-22)()
 - c. Assist the participant to monitor and review their budget; (3-17-22)

- d. Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-17-22)
- e. ~~Participate with~~ Adhere to Department quality assurance measures, ~~as requested~~; (3-17-22)()
- f. Assist the participant to complete the annual re-determination process as needed, including updating the ~~support and spending plan SSP~~ and submitting it to the Department for authorization; (3-17-22)()
- g. Assist the participant, as needed, to meet the participant responsibilities outlined in ~~Section 120 of~~ these rules and assist the participant, as needed, to protect their own health and safety; (3-17-22)()
- h. Complete the Department-approved ~~criminal history background~~ check waiver form when a participant chooses to waive the ~~criminal history background~~ check requirement for a ~~community support worker CSW~~. Completion of this form requires that the ~~support broker SB~~ provide education and counseling to the participant and their ~~circle of support COS~~ regarding the risks of waiving a ~~criminal history background~~ check and assist with detailing the rationale for waiving the ~~criminal history background~~ check and how health and safety will be protected; ~~and~~ (3-17-22)()
- i. Assist children enrolled in the ~~Family Directed Community Supports (FDCS) O~~ option as they transition to adult DD services. (3-17-22)()
- j. Sign the written ~~support and spending plan SSP~~ as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits,"; ~~and Section 317~~. (3-17-22)()
- k. Report concerns or discrepancies in documentation and services provided to the Department immediately. ()
- 034. Additional Support Broker Duties.** In addition to the required ~~support broker SB~~ duties, each ~~support broker SB~~ must be able to provide the following services when requested by the participant: (3-17-22)()
- a. Assist the participant to develop and maintain a ~~circle of support COS~~; (3-17-22)()
- b. Help the participant learn and implement the skills needed to recruit, hire, and monitor community supports; (3-17-22)
- c. Assist the participant to negotiate rates for paid ~~community support workers CSW~~; (3-17-22)()
- d. Maintain documentation of supports provided by each ~~community support worker CSW~~ and participant's satisfaction with these supports; (3-17-22)()
- e. Assist the participant to monitor community supports; (3-17-22)
- f. Assist the participant to resolve employment-related problems; (3-17-22)
- g. Assist the participant to identify and develop community resources to meet specific needs; and (3-17-22)
- h. Assist the participant in distributing the ~~support and spending plan SSP~~ to ~~community support workers CSWs~~ or vendors as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits,"; ~~Section 317~~. (3-17-22)()
- 045. Termination of Support Broker Services.** If a ~~support broker an SB~~ decides to end services with a participant, they must give the participant and the Department at least thirty (30) days' written notice prior to terminating services. The ~~support broker SB~~ must assist the participant to identify a new ~~support broker SB~~ and

provide the participant and new ~~support broker SB~~ with a written service transition plan by the date of termination. The transition plan must include an updated ~~support and spending plan SSP~~ that reflects current supports being received, details about the existing ~~community support workers CSWs~~, and unmet needs. (3-17-22)()

137. -- 139. (RESERVED)

140. COMMUNITY SUPPORT WORKER (CSW) LIMITATIONS.

A paid ~~community support worker CSW~~ must not be the spouse of the participant, ~~and, f~~ For FDCS, ~~they~~ must: 1) not be the parent or legal guardian of the participant, ~~and must~~ 2) not have direct control over the participant's choices, ~~must~~ 3) avoid any conflict of interest, and ~~must~~ 4) not receive undue financial benefit from the participant's choices. (3-17-22)()

01. Work Limit. A CSW for SDCS cannot work more than twelve (12) hours in a day without authorization from the Department. ()

012. Self-Directed Community Supports (SDCS). ~~SDCS CSW cannot be younger than seventeen (17) years of age except when providing chore services and then may be sixteen (16) years of age. A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following:~~ (3-17-22)()

~~a. The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules.~~ (3-17-22)

~~b. The legal guardian must not be paid to fulfill any obligations they are legally responsible to fulfill as outlined in the guardianship or conservator order from the court.~~ (3-17-22)

023. Family Directed Community Supports (FDCS). ~~A parent or legal guardian cannot be a paid community support worker.~~ A paid ~~community support worker CSW~~ may provide unskilled supervision, but cannot: (3-17-22)()

a. ~~Must not s~~Supplant the role of the parent or legal guardian; (3-17-22)()

b. ~~Cannot b~~Be paid to fulfill any obligations that the parent or legal guardian is legally responsible to fulfill for their child.; (3-17-22)()

c. Be under the age of sixteen (16) years old; or ()

d. Transport or be left alone with a participant under the age of eighteen (18) years old. ()

141. -- 149. (RESERVED)

150. PAID COMMUNITY SUPPORT WORKER (CSW) DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the ~~community support worker CSW~~ must type and complete the packet of information provided by the ~~fiscal employer agent and submit it to the fiscal employer agent FEA and submit to the FEA~~. When the ~~community support worker CSW~~ will be providing services, this packet must include documentation of: (3-17-22)()

a. A completed ~~criminal history background~~ check, including clearance in accordance with ~~Section 009 of these rules and IDAPA 16.05.06, "Criminal History and Background Checks,"~~ or documentation that this requirement has been waived by the participant in accordance with these rules. ~~This documentation must be provided on a Department approved form and include the rationale for waiving the criminal history check and describe how health and safety will be ensured in lieu of a completed criminal history check.~~ Individuals listed on a state or federal provider exclusion list must not provide paid supports; (3-17-22)()

b. A completed employment agreement with the participant in accordance with these rules ~~that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the~~

~~support to be provided.~~ If the ~~community support worker~~ CSW is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (3-17-22)()

c. Current state licensure or certification if identified support requires certification or licensure; and (3-17-22)

d. A statement of qualifications to provide supports identified in the employment agreement. (3-17-22)

02. Employment Agreement. The ~~community support worker~~ CSW must deliver supports as defined in the employment agreement. (3-17-22)()

03. Documentation of Supports. The ~~community support worker~~ CSW must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the participant's ~~fiscal employer agent~~ FEA or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's ~~fiscal employer agent~~ FEA. Failure to do so may result in recoupment. (3-17-22)()

04. Time Sheets and Invoices. The ~~community support worker~~ CSW must obtain the signature of the participant or their legal representative on each completed timesheet or invoice prior to submitting the document to the ~~fiscal employer agent~~ FEA for payment. Time sheets or invoices that are not signed by the ~~community support worker~~ CSW and the participant or their legal representative will not be paid. (3-17-22)()

151. -- 159. (RESERVED)

160. SUPPORT AND SPENDING PLAN (SSP) DEVELOPMENT.

01. ~~Support and Spending Plan Requirements.~~ The participant, with the help of their ~~support broker~~ SB, must develop a comprehensive ~~support and spending plan~~ SSP based on the information gathered during the person-centered planning. The person-centered planning process must meet all HCBS requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." The ~~support and spending plan~~ SSP is not valid until authorized by the Department, and The SSP must include the following: (3-17-22)()

a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in their community. (3-17-22)

b. Paid or non-paid ~~consumer directed community~~ supports that focus on the participant's wants, needs, and goals in the following areas: (3-17-22)()

i. Personal health and safety including quality of life preferences; (3-17-22)

ii. Securing and maintaining employment for SDCS; (3-17-22)()

iii. Establishing and maintaining relationships with family, friends and others to build the participant's ~~circle of supports~~ COS; (3-17-22)()

iv. Learning and practicing ways to recognize and minimize interfering behaviors for SDCS; and (3-17-22)()

v. Learning new ~~skills~~ or improving existing ~~ones~~ skills to accomplish set goals for SDCS. (3-17-22)()

c. Support needs such as: (3-17-22)

i. Medical care and medicine for SDCS; (3-17-22)()

- ii. Skilled care including therapies or nursing needs for SDCS; (3-17-22)()
- iii. Community involvement; (3-17-22)
- iv. Preferred living arrangements including possible roommate(s); and (3-17-22)
- v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-17-22)

d. Risks or safety concerns in relation to the identified support needs on the participant's plan SSP. The plan must be active and specify the goods, supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (3-17-22)()

e. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; (3-17-22)

f. The budgeted amounts planned in relation to the participant's needed supports. ~~Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily.~~ The fiscal employer agent FEA will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan SSP prior to processing time sheets or invoices for payment; and (3-17-22)()

~~g. Additional HCBS person-centered plan requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 313, 316, and 317.~~ (3-17-22)

02. Support and Spending Plan Limitations. ~~Support and spending plan limitations include:~~ (3-17-22)()

a. Traditional ~~Medicaid Adult DD~~ waiver services, and ~~traditional~~ rehabilitative, or habilitative services must not be purchased under the CDCS option. Because a participant cannot receive these traditional services and ~~consumer directed services CDCS~~ at the same time, the participant, the ~~support broker SB~~, and the Department must all work together to ensure that there is no interruption of required services when moving between traditional services and the CDCS option; (3-17-22)()

b. Paid community supports must not be provided in a group setting with recipients of traditional ~~Medicaid Adult DD~~ waiver services, rehabilitative, or habilitative services. This limitation does not ~~preclude prevent~~ a participant who has selected the ~~consumer directed CDCS~~ option from choosing to live with recipients of traditional ~~Medicaid Adult DD~~ waiver, rehabilitative, or habilitative services; (3-17-22)()

c. All paid community supports must fit into ~~one (1) or more a~~ types of community supports described in ~~Section 110 of~~ these rules. The ~~support and spending plan SSP~~ must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; (3-17-22)()

d. ~~Support and spending plans SSPs~~ that exceed the approved budget amount will not be authorized; and (3-17-22)()

e. Time sheets or invoices ~~that are submitted to the fiscal employer agent for payment that~~ exceed ing the authorized ~~support and spending plan SSP~~ amount will not be paid by the ~~fiscal employer agent FEA~~. (3-17-22)()

~~161.—169. (RESERVED)~~

170. PERSON-CENTERED PLANNING.

01. Direction of the Person-Centered Planning Process. The participant agrees to direct the person-

~~centered planning process in order to identify and document their support and service needs, wants, and preferences.~~
(3-17-22)

~~02. **Participant Choice.** The participant decides who they want to participate in the planning sessions in order to ensure the participant's choices are honored and promoted.~~
(3-17-22)

~~03. **Facilitation of Person-Centered Planning Meetings.** The participant may facilitate their person-centered planning meetings, or these meetings may be facilitated by the chosen support broker.~~
(3-17-22)

~~04. **Focus of Person-Centered Planning.** The person-centered planning should focus on identifying strengths, capacities, preferences, needs, and desired goals of the participant for all life areas.~~
(3-17-22)

~~05. **Timeframes of Person-Centered Planning.** The person-centered planning should be completed as timely as possible in order to provide the necessary information required to develop the participant's support and spending plan. Time limitations are not currently mandated in order to allow for extensive, comprehensive planning and thoughtful support and spending plan development.~~
(3-17-22)

~~06. **HCBS Person-Centered Planning Requirements.** The person-centered planning process must meet all HCBS requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 316.~~
(3-17-22)

~~176.1. -- 179. (RESERVED)~~

180. CIRCLE OF SUPPORTS.

~~The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports performs on behalf of the participant are not paid.~~
(3-17-22)

~~01. **Focus of the Circle of Support.** The participant's circle of support COS should be is built and operates with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action an SSP, along with and on behalf of the participant, to help the participant accomplish their personal goals.~~
(3-17-22)()

~~02. **Members of the Circle of Support.** A circle of support COS is unpaid, selected by the participant, and may include family members, friends, neighbors, co-workers, and other community members. For the SDCS, when the participant's legal guardian is selected as a community support worker CSW, the circle of support COS must include at least one (1) non-family member that who is not the support broker SB. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian.~~
(3-17-22)()

~~03. **Selection and Duties of the Circle of Support.** Members of the circle of support are selected by the participant and commit to work within the group to:~~
(3-17-22)()

~~a. **Help p**Promote and improve the life of the participant in accordance with the participant's choices and preferences; and~~
(3-17-22)()

~~b. Meet on a regular basis regularly to assist the participant to accomplish their expressed goals.~~
(3-17-22)()

~~04. **Natural Supports.** A nNatural supports may perform any duty of the support broker SB as long as the support broker SB still completes the required responsibilities listed in Subsection 136.02 of these rules. Additionally, any community support worker CSW task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's support plan SSP, but time worked does not need to be recorded or reported to the fiscal employer agent FEA.~~
(3-17-22)()

~~181. -- 189. (RESERVED)~~

190. INDIVIDUALIZED BUDGET.

The Department will assign budgets based on the criteria under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (7-1-24)

~~01. Budget Amount Notification.~~ The Department notifies each participant of their set budget amount as part of the eligibility determination or annual redetermination process. The notification will include how the participant may appeal the set budget amount. (3-17-22)

~~02. Annual Re-Evaluation of Adult Individualized Budgets.~~ Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's condition that results in a need for services that meet medical necessity criteria, and that is not reflected on the current inventory of individual needs. (3-17-22)

~~03. Annual Re-Evaluation of Children's Individualized Budgets.~~ Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 527. (7-1-24)

191. -- 199. (RESERVED)

200. QUALITY ASSURANCE.

The Department will implement quality assurance processes to ensure: access to ~~consumer directed services~~ CDCS, participant direction of ~~plans~~ SSPs and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. (3-17-22)()

01. ~~Participant Experience Survey (PES)~~ Adult Services Outcome Review (ASOR). Each participant will have the opportunity to provide feedback to the Department about their satisfaction with consumer-directed services utilizing the ~~PES~~ ASOR. (3-17-22)()

02. ~~Participant Experience~~ Adult Service Outcomes. Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: (3-17-22)()

- a. Access to care; (3-17-22)
- b. Choice and control; (3-17-22)
- c. Respect and dignity; (3-17-22)
- d. Community integration; and (3-17-22)
- e. Inclusion. (3-17-22)

~~03. Fiscal Employer Agent Quality Assurance Activities.~~ The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. (3-17-22)

~~043. Community Support Workers and Support Brokers~~ CSWs and SBs Quality Assurance Activities. ~~Community support workers~~ CSWs and ~~support brokers~~ SBs must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (3-17-22)()

~~054. Participant Choice of Paid Community Support Worker~~ CSW. Paid ~~community support workers~~ CSWs must be selected by the participant, or their chosen representative, and meet the qualifications identified in ~~Section 150~~ of this rule. (3-17-22)()

~~065. Complaint Reporting and Tracking Process.~~ The Department will maintain a complaint

reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (3-17-22)

076. Quality Oversight Committee. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-17-22)

087. Quarterly Quality Assurance Reviews. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved ~~support and spending plan~~ SSP. (3-17-22)()

098. Home and Community-Based-Service Specific Reviews. The Department will implement quality assurance and improvement activities to ensure compliance with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," ~~Sections 310 through 317.~~ (3-17-22)()

201. -- 209. (RESERVED)

210. CONTINUATION OF THE CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.

The following requirements must be met or the Department may require the participant to discontinue the CDCS option: (3-17-22)

01. Required Supports. The participant is willing to work with ~~a support broker~~ an SB and a fiscal employer agent. (3-17-22)()

a. The participant can only change FEA services by providing a written request to their current FEA provider at least sixty (60) days in advance, and this change must occur at the end of a fiscal quarter. The request must include the name of the new FEA chosen by the participant and provide the specific date the change will occur. (3-17-22)

b. When a participant provides a written request to their current FEA provider to change to a different FEA provider, the current FEA provider must notify the participant of the specific date that the last payroll run will occur at the end of the fiscal quarter. (3-17-22)

02. Support and Spending Plan SSP. The participant's ~~support and spending plan~~ SSP is ~~being~~ followed. (3-17-22)()

03. Risk and Safety Back-Up Plans. Back-up plans to manage risks and safety are ~~being~~ followed. (3-17-22)()

04. Health and Safety Choices. The participant's choices do not directly endanger their health, welfare and safety or endanger or harm others. (3-17-22)

211. -- 299. (RESERVED)

FISCAL EMPLOYER AGENTS ~~DUTIES AND RESPONSIBILITIES~~
(Sections 300-314)

300. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES (FEA): DEFINITIONS.~~ For purposes of Sections 300 through 314, the following definitions apply: (3-17-22)()

01. Employee. A ~~community support worker~~ CSW employed by a participant receiving services under the CDCS option. (3-17-22)()

02. Employer. A participant receiving services under the CDCS option. (3-17-22)

03. Provider. The term “provider” specifically refers to the ~~fiscal employer agent FEA~~ providing ~~financial management services FMS~~ to individuals participating in ~~consumer direction~~ the CDCS option. (3-17-22)()

04. Secure File Transfer Protocol (SFTP). ~~Secure File Transfer Protocol.~~ A secure means of transferring data that allows certain Department staff to access information regarding ~~consumer direction~~ CDCS participants. (3-17-22)()

05. Vendor. ~~Provides goods and services rendered by a~~ Agencies and independent contractors that provide goods and services in accordance with a participant’s ~~support and spending plan~~ SSP. (3-17-22)()

06. Medicaid Billing Report. A report generated every payroll period by the provider; it provides a list and count of unduplicated participants and payroll expenditures by service code, based on the date of service time frame specified by the user. (3-17-22)

301. FISCAL EMPLOYER AGENT: REQUIREMENTS AND LIMITATIONS.

01. Limitations. The FEA must not: ()

a. Provide any other direct services to the participant, to ensure there is no conflict of interest; or ()

b. Employ the guardian, parent spouse, payee or conservator of the participant or have direct control over the participant’s choice. ()

302. FISCAL EMPLOYER AGENT: DUTIES AND RESPONSIBILITIES.

The FEA performs FMS for each participant. Prior to providing FMS the participant and the FEA must enter into a written agreement. FMS include: ()

01. Payroll and Accounting. Providing supports to participants that have chosen the CDCS option including: ()

a. An online electronic time sheet entry for participants; ()

b. Processing time sheets for CSWs and SBs, as authorized by the participant, according to the participant’s Department-authorized SSP; and ()

c. Issuing payroll checks after receipt of completed, approved time sheets. ()

02. Recoupment. Recoup payments made in error when identified by the FEA or the Department by either deducting from future payments or requiring repayment. ()

03. Financial Reporting. Performing financial reporting for employees of each participant. ()

04. Information Packet. Preparing and distributing a packet of information, including Department-approved forms for agreement, for the participant hiring their own staff. ()

05. Labor Laws. Ensure each participant’s compliance with all applicable labor laws. ()

06. Taxes. Ensure each participant’s compliance with regulations for both federal and state taxes, including preparation and submission of all federal and state forms for each participant and their employees. Manage and process payment of required state and federal employment taxes for the participant’s CSWs and SB. ()

07. Payments of Goods and Services. Process and pay invoices for goods and services, as authorized by the participant, according to the participant’s SSP. ()

08. Spending Information. Providing each participant with reporting information that will assist the participant with managing the individualized budget. ()

09. Quality Assurance and Improvement. Participating in Department quality assurance activities. ()

3043. FISCAL EMPLOYER AGENT (FEA) DUTIES AND RESPONSIBILITIES: CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS).

01. Federal Tax ID Requirement. The ~~fiscal employer agent~~ FEA must obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants ~~under Section 3504 of the Internal Revenue Code (26 USC 3504)~~. In addition, the provider must: (3-17-22)()

a. Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for FEIN in the participant's file. (3-17-22)

b. Retire participant's FEIN when the participant is no longer an employer under ~~consumer directed community supports (CDCS)~~. (3-17-22)()

02. Requirement to Report Irregular Activities or Practices. The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations; (3-17-22)

~~03. Procedures Restricting FMS to Adult and Children's DD Waiver and Children's HCBS State Plan Option Participants.~~ The provider must not act as a fiscal employer agent and provide fiscal management services to a DD waiver or Children's HCBS State Plan Option participant for whom it also provides any other services funded by the Department. (3-17-22)

043. Policies and Procedures. The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. (3-17-22)

054. Key Contact Person. The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and ~~ensure these individuals~~ respond to the Department within one (1) business day. (3-17-22)()

065. Face-to-Face Transitional Participant Enrollment. The provider must conduct face-to-face transitional participant enrollment sessions in group settings or with individual participants in their homes or other designated locations. The provider must work with the regional Department staff to coordinate and conduct enrollment sessions. The face-to-face encounter may occur via ~~synchronous interaction telehealth~~ virtual care, as defined in Title 54, Chapter 57, Idaho Code. (3-17-22)()

076. SFTP Site. The provider must provide an SFTP site for the Department to access. ~~The site must have with~~ the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. (3-17-22)()

087. Required IRS Forms. The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: (3-17-22)

a. IRS Form 2678; (3-17-22)

b. IRS Approval Letter; (3-17-22)

c. IRS Form 2678 revocation process; (3-17-22)

- d. Initial IRS Form 2848; and (3-17-22)
- e. Renewal IRS Form 2848. (3-17-22)

098. Requirement to Obtain and Revoke Power of Attorney. The provider must obtain an Idaho State Tax Commission Power of Attorney (~~Form TC00110~~ ID-POA) from each participant it represents ~~and, revoke the Form ID-POA when the provider no longer represents the participant, and~~ maintain the relevant documentation in each participant's file. (3-17-22)

~~10. Requirement to Revoke Power of Attorney.~~ The provider must ~~revoke the Idaho State Tax Commission Power of Attorney (Form TC00110) when the provider no longer represents the participant and maintain the relevant documentation in the participant's file.~~ (3-17-22)

~~11. Home and Community Based Person-Centered Service Plan Requirements.~~ The provider must ~~sign the written support and spending plan as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 317.~~ (3-17-22)

3024. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): CUSTOMER SERVICE.

01. Customer Service System. The provider must provide a customer service system to respond to all inquiries from participants, employees, agencies, and vendors. The provider must: (3-17-22)

- a. Provide staff with customer service training with an emphasis on consumer-direction. (3-17-22)
- b. Ensure staff are trained and have the skills to assist participants with enrollment and to help them understand their account statements. (3-17-22)
- c. Ensure that ~~fiscal employer agent~~ FEA personnel are available during regular business hours. (7-1-24)()
- d. Provide translation and interpreter services. ~~(i.e., American Sign Language and services for persons with limited English proficiency).~~ (3-17-22)()
- e. Provide prompt and consistent response to verbal and written communication. Specifically: (3-17-22)
 - i. All calls and voice mails must be responded to within one (1) business day; and (7-1-24)
 - ii. All written and electronic correspondence must be responded to within five (5) business days. (3-17-22)
- f. Maintain a toll-free phone line where callers speak to a live person during business hours and are provided the option to leave voice mail at any time, ~~all day, every day.~~ (3-17-22)()
- g. Maintain a toll-free fax line that is available ~~all day, every day at any time,~~ exclusively for participants and their employees. (3-17-22)()
- h. Maintain an e-mail address.** ()

02. Complaint Resolution and Tracking System. The provider is responsible for receiving, responding to, and tracking all complaints from any source under this agreement ~~and corrective actions.~~ A complaint is defined as a verbal or written expression of dissatisfaction about ~~fiscal employer agent~~ FEA services. The provider must: (3-17-22)()

- a. Respond to all written and electronic correspondence within five business (5) days. (7-1-24)

- b. Respond to all calls and voicemails within one (1) business day. (7-1-24)
- c. Maintain an electronic tracking system and log of complaints and resolutions. ~~The electronic log of complaints and resolutions must be~~ accessible for Department review through the SFTP site. (3-17-22)()
- d. Log and track complaints received from the Department pertaining to ~~fiscal employer agent FEA~~ services. (3-17-22)()
- e. Compile a quarterly summary report ~~and analyzing~~ complaints ~~received on a quarterly basis~~ to determine the quality of services to participants and to identify any corrective action necessary. (3-17-22)()
- f. Implement corrective action within one (1) business day of the complaint response.
- fg. Post the complaint to the SFTP site within ~~twenty-four (24) hours any day a complaint is received Monday through Friday. Saturday and Sunday complaints must be posted to the SFTP site by close of business the following Monday.~~ one (1) business day. Failure to comply will result in a fifty dollar (\$50) penalty payable to Medicaid within ninety (90) days of incident. (3-17-22)()

3035. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PERSONAL AND CONFIDENTIAL INFORMATION.

The provider must implement and enforce policies and procedures regarding documents that are mailed, faxed, or e-mailed to and from the provider to ensure documents are tracked and that confidential information is not compromised, is stored appropriately and not lost, and is traceable for historical research purposes. (3-17-22)()

3046. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): ENROLLMENT PROCESS.

- 01. **Submission of Participant Enrollment and Employee Packets for Department Approval.** The provider must submit the following for participant enrollment and employee packets to the Department for approval. (3-17-22)
 - a. The participant enrollment packet must include: (3-17-22)
 - i. ~~Fiscal employer agent FEA~~ authorization form; (3-17-22)()
 - ii. Employer Appointment of Agent - IRS Form; (3-17-22)
 - iii. Tax Information Form; and (3-17-22)
 - iv. Employer information. ~~The employer information must include:~~ including: (3-17-22)()
 - (1) Instructions for completing forms; (3-17-22)
 - (2) Payroll schedule, including deadlines for submission of time cards; (3-17-22)
 - (3) Sample employment agreements; (3-17-22)
 - (4) Sample Request for Vendor Payment form; (3-17-22)
 - (5) Sample independent provider agreement; and (3-17-22)
 - (6) Other sample employment agreements as needed. (3-17-22)
 - b. The employee enrollment packet must contain: (3-17-22)
 - i. Employee Information Form; (3-17-22)

- ii. I-9 Employment Eligibility Form; (3-17-22)
- iii. W-4 Employee Withholding Allowance Certificate; (3-17-22)
- iv. Pay selection agreement; (3-17-22)
- v. Direct deposit authorization (optional); ~~and~~ (3-17-22)()
- vi. Sample time sheets and instructions for completion; ~~and~~. (3-17-22)()
- ~~vii. IRS Form W-5. (3-17-22)~~

02. Distribution of Participant Enrollment and Employee Packets to Participant after Department Approval. The provider must distribute Department-approved participant enrollment packets and employment packets to the participant within two (2) business days after the participant requests the packets. (3-17-22)

- a. To enroll a participant, the provider must: (3-17-22)
 - i. Enroll the participant within two (2) business days of receipt of completed paperwork; and (3-17-22)
 - ii. Log and maintain an electronic record of all enrollment paperwork, which includes participant ~~support and spending plan~~ SSP cost and authorization sheets. (3-17-22)()
- b. To enroll an employee, the provider must: (3-17-22)
 - i. Enroll the employee within two (2) business days of receipt of completed paperwork; and (3-17-22)
 - ii. Log and maintain an electronic record of all the employee's paperwork that includes the employment agreements. (3-17-22)

3057. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PAYMENT PROCESS.

01. Process Payroll. The provider must process payroll, including time sheets and taxes, in accordance with the participant's ~~support and spending plan~~ SSP. The payroll process must include: (3-17-22)()

- a. Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. (3-17-22)
- b. Payment of invoices to vendors. (3-17-22)
- c. Management of participant budget funds as per authorized ~~support and spending plan~~ SSP. (3-17-22)()
- d. Garnishment of wages as per court orders. (3-17-22)
- e. Preparation of year-end federal and state tax forms. (3-17-22)
- f. Payment of worker's compensation insurance premiums. (3-17-22)

02. Requirement to Track and Log Time Sheet Billing Errors. The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. (3-17-22)

03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks. The provider must track and log occurrences of improperly cashed or improperly issued checks and stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within fourteen (14) calendar days of when the error occurred. (3-17-22)

04. Process Employee Payments. The provider must verify ~~employees'~~ documentation and process ~~employees'~~ payments via ~~check, direct deposit, or pay cards as per the~~ preference of employees. The employee payment process includes: (3-17-22)()

- a. Receipt of time cards from employees via mail, fax, or website by specified due dates. (3-17-22)
- b. Review time cards for accuracy and verify that timecards contain the following information: (3-17-22)
 - i. Employer name and ID number. (3-17-22)
 - ii. Employee name and ID number. (3-17-22)
 - iii. Hours of work. (3-17-22)
 - iv. Code for service. (3-17-22)
- c. Match codes to employment agreement to verify rate of pay. (3-17-22)
- d. Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay. (3-17-22)
- e. Calculate all taxes and other withholding. (3-17-22)
- f. Pay employees every two (2) weeks or semi-monthly. (3-17-22)
- g. Contact participant and representative ~~if there are~~ to resolve problems with timecards or other documents ~~in order to resolve issues~~ prior to pay-date, if possible. (3-17-22)()
- h. Maintain an electronic complaint log of payroll issues and resolutions. (3-17-22)
- i. ~~The provider must verify there is~~ Verification of any money remaining in each participant's budget and specific service category prior to issuing ~~a check~~ payment. (3-17-22)()

05. Process Vendor Payments. When participants submit requests for payment to vendors, the provider must: (3-17-22)

- a. Review, and maintain on file, the vendor payment request with attached voided vendor receipt submitted by the participant. (3-17-22)
- b. Ensure item or payment is authorized on the participant's ~~support and spending plan~~ SSP. (3-17-22)()
- c. Issue ~~a check made out~~ payment to the vendor ~~and mail to participant for distribution~~. ~~Vendor payments are made~~ on the same schedule as payroll. (3-17-22)()

06. Process Independent Contractor or Outside Agency Payments. When the participant hires an independent contractor or outside agency, in accordance with the ~~support and spending plan~~ SSP, the provider must: (3-17-22)()

- a. Obtain a W-9 from the contractor or agency. (3-17-22)

- b. Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. (3-17-22)
- c. Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. (3-17-22)
- d. Ensure service or payment is authorized on the ~~support and spending plan~~ SSP. (3-17-22)()
- e. Issue payment directly to the independent contractor or agency. (3-17-22)
- 07. End-of-Year Processing.** For purposes of end-of-year processing, the provider must maintain relevant documentation and must: (3-17-22)
- a. Refund over-collected Federal Insurance Contributions Act tax (FICA) to applicable employees, or to state government; (3-17-22)
- b. Prepare, file, and distribute IRS Form W-2 for each employee; (3-17-22)
- c. Prepare and file IRS Form W-3 for each participant represented; (3-17-22)
- d. Prepare and file State Form 9567 for state income taxes withheld for each employer; (3-17-22)()
- e. Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and (3-17-22)
- f. Report and pay all state and federal unemployment insurance premiums. (3-17-22)
- 08. Transition to New FEA.** The following items must be addressed if a participant transitions to a new FEA provider. For the purposes of a smooth transition between FEA providers, the two providers must work closely with one another to transfer the participant from the services one is no longer providing to the services the other is providing. The following items must be transferred: (3-17-22)
- a. Participant's ~~Federal Employer Identification Number (FEIN)~~ and FEIN mailing address. (3-17-22)()
- ~~b. Mailing address for FEIN.~~ (3-17-22)
- ~~eb.~~ IRS Form 2678 Agent/Payer Authorization. (3-17-22)
- ~~ed.~~ Depositing taxes and filing report. This includes Federal and State tax withholdings and Federal Unemployment Tax Act tax (FUTA). (3-17-22)
- ~~ed.~~ Participant's FUTA Liability Status. (3-17-22)
- ~~fe.~~ FICA and FUTA Exemption Status of Participant Employees. (3-17-22)()
- ~~g.~~ FUTA Exemption Status of Participant Employees. (3-17-22)
- ~~hf.~~ Unemployment Insurance (U/I). (3-17-22)
- ~~ig.~~ Unemployment Insurance Experience Rate and Taxable Wage Base. (3-17-22)
- ~~j.~~ Unemployment Insurance Taxable Wage Base. (3-17-22)
- ~~kh.~~ State Unemployment Insurance Liability Status of the Participant and Exempt Employees. (3-17-22)()

- ~~l.~~ State Unemployment Insurance Liability Status of Exempt Employees. (3-17-22)
- ~~m.~~ Unemployment Insurance Filing and Depositing. (3-17-22)
- ~~n.~~ State Income Tax - Account Number Agent Authorization, Filing and Depositing. ~~(3-17-22)()~~
- ~~o.~~ State Income Tax ~~Agent Authorization.~~ (3-17-22)
- ~~p.~~ State Income Tax ~~Filing and Depositing.~~ (3-17-22)
- ~~q.~~ Budget Authorization - ~~a~~Authorized ~~s~~Services Spent and Remaining, Authorized Providers, and Authorized Provider Rates. ~~(3-17-22)()~~
- ~~r.~~ Budget Authorization ~~spent and remaining.~~ (3-17-22)
- ~~s.~~ Budget Authorization ~~authorized providers.~~ (3-17-22)
- ~~t.~~ Budget Authorization ~~authorized provider rates.~~ (3-17-22)
- ~~u.~~ Participant's Representative, and Participant's Employee and Provider Demographic ~~i~~Information. ~~(3-17-22)()~~
- ~~v.~~ Participant's Representative demographic information. (3-17-22)
- ~~w.~~ Participant's Employee and provider demographic information. (3-17-22)
- ~~x.~~ Participant's Employee New Hire Reporting, Liens and Garnishments, and ~~t~~Tax and ~~e~~Other ~~i~~Information. ~~(3-17-22)()~~
- ~~y.~~ Participant's Independent contract and other information. (3-17-22)
- ~~z.~~ Participant's Employee New Hire Reporting. (3-17-22)
- ~~aa.~~ Participant's Employee Liens and Garnishments. (3-17-22)

3068. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): ANNUAL PARTICIPANT SURVEY.

01. Requirement to Conduct Annual Participant Satisfaction Survey. Starting October 1 of each calendar year, each provider who has been providing services for at least six (6) months must conduct an annual participant satisfaction survey. (3-17-22)

a. Three (3) weeks prior to the survey launch, the provider must present the questions to the Department staff for approval. (3-17-22)

b. Once the questions are approved by the Department, the provider can send out the survey. (3-17-22)

c. The provider must survey its participants who receive services under ~~consumer directed services the CDCS option, such as participants with disabilities, family members of participants, and participants~~ including those whose primary language is other than English. ~~(3-17-22)()~~

d. The provider must provide options for participants to respond to the surveys, other than by mail, ~~for those participants who may not be able to respond by that method.~~ ~~(3-17-22)()~~

02. Requirement to Provide Results of Annual Participant Satisfaction Survey. The provider must

provide the results of the surveys to the Department in a comprehensive report, along with the completed surveys, by the 15th of December ~~of~~ each calendar year. (3-17-22)()

3079. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): QUALITY ASSURANCE.

01. Quality Assurance Activities. The FEA must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of background check waivers, and timely reporting of accounting and satisfaction data. ()

012. Required Elements of Quality ~~In~~ Assurance Process. The provider must provide a quality assurance process that includes: (3-17-22)()

- a. Implementation of a quality management plan; (3-17-22)
- b. Preparation of a quarterly, quality management analysis report; (3-17-22)
- c. Distribution, collection, and analysis of an annual participant satisfaction survey; and (3-17-22)
- d. A review of the monthly complaint summary and resolutions, monitoring of standards, and implementation of program improvements as needed. (3-17-22)

023. Requirement for Formal Quality Assurance Review. Every two (2) years, the provider must participate in a formal quality assurance review conducted in collaboration with the Department. (3-17-22)()

30810. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): DISASTER RECOVERY PLAN.

01. Disaster Recovery Plan. The provider must develop and maintain a Disaster Recovery Plan for electronic and hard copy files that includes restoring software and data files, and hardware backup if management information systems are disabled or servers are inoperative. The results of the Disaster Recovery Plan must ensure the continuation of payroll and invoice payment systems. The provider must submit the Disaster Recovery Plan for Department approval during the readiness review. (3-17-22)

02. Requirement to Report a Disaster. The provider must report to the Department if management information systems are disabled or servers are inoperative within twenty-four (24) hours of the event. (3-17-22)

30911. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): TRANSITION PLAN.

01. Transition Plan Objectives. The provider must provide a transition plan to the Department ~~within ninety (90) days after successful completion of~~ for the readiness review. The objectives of the transition plan are to minimize the disruption of services and provide an orderly and controlled transition of the provider's responsibilities to a successor at the conclusion of the agreement period or for any other reason the provider cannot complete responsibilities described in this chapter of rules. (3-17-22)()

02. Transition Plan Requirements. The transition plan must: (3-17-22)

- a. Be updated at least ninety (90) days prior to termination of the provider agreement. (3-17-22)
- b. Include tasks, and subtasks for transition, a schedule for transition, operational resource requirements, and training to be provided. (3-17-22)
- c. Provide for transfer of data, documentation, files, and other records relevant to the agreement in an electronic format accepted by the Department. (3-17-22)
- d. Provide for the transfer of any current, Idaho-specific policy and procedure manuals, brochures, pamphlets, and all other written materials developed in support of agreement activity to the Department. (3-17-22)

~~310~~**12. FISCAL EMPLOYER AGENT—DUTIES AND RESPONSIBILITIES (FEA): PERFORMANCE METRICS.**

~~The provider must do the following:~~ (7-1-24)

01. Readiness Review. Complete a readiness review conducted by the Department with the provider prior to providing ~~fiscal employer agent~~ **FEA** services. (7-1-24)()

~~a. The provider must complete one hundred percent (100%) of the readiness review.~~ (7-1-24)

~~ba. The Department will access SFTP site for review of provider documents and conduct an onsite review.~~ (7-1-24)

~~02. Compliance with Tax Regulations and Labor Laws.~~ Ensure each participant's compliance with regulations for both federal and state taxes, and all applicable labor laws. (7-1-24)

03.2. Fiscal Support and Financial Consultation. (3-17-22)

a. The provider must provide each participant with fiscal support and financial consultation. (3-17-22)

~~b. The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic correspondence within five business (5) days.~~ (7-1-24)

~~04. Federal and State Forms Submitted.~~ Ensure each participant's compliance with regulations for both federal and state taxes, including preparation and submission of all federal and state forms for each participant and their employees. (7-1-24)

~~05. Mandatory Reporting, Withholding, and Payment.~~ Perform all mandatory reporting, withholding, and payment actions according to the compliance requirements of the state and federal agencies. (7-1-24)

~~06. Payroll Checks.~~ Issue payroll checks within the two (2) week or semi-monthly payroll cycle, after receipt of completed, approved time sheets. (7-1-24)

~~07. Adherence to Support and Spending Plan.~~ Distribute payments to each participant employee under the participant's support and spending plan. (7-1-24)

~~08. Record Activities.~~ Record all activities in an individual file for each participant and their employees. (7-1-24)

~~09. Records in Participant File.~~ Maintain complete records in each participant's file. (7-1-24)

~~10. Manage Phone, Fax, and E-Mail for Fiscal and Financial Questions.~~ (3-17-22)

~~a. The provider must manage toll-free telephone line, fax, and e-mail related to participant fiscal and financial questions.~~ (3-17-22)

~~b. The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic correspondence within five (5) business days.~~ (7-1-24)

~~11. Track Complaints and Complaint Resolution.~~ (7-1-24)

~~a. The provider must maintain a register of complaints from participants, participant employees, and others, with corrective action implemented by the provider within one (1) business day of the complaint response.~~ (7-1-24)

~~b.~~ The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic complaints within five (5) business days. (7-1-24)

~~12. Web Access to Electronic Time Sheet Entry.~~ Maintain web access to electronic time sheet entry for participants. (7-1-24)

~~13. Participant Enrollment Packets and Employment Packets.~~ Prepare and distribute participant enrollment and employment packets to each participant. (7-1-24)

~~14. Payroll Spending Summaries.~~ Provide each participant with payroll spending summaries and information about how to read the payroll spending summary each time payroll is executed. (7-1-24)

~~1503. Quarterly Reconciliation.~~ Each fiscal quarter after initiating service, the provider must reconcile its Medicaid Billing Report to a zero-dollar (\$0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's ~~spending plan~~ SSP balance to a zero dollar (\$0) balance with Medicaid's reimbursements. The provider must: (7-1-24)()

a. Have>Show one hundred percent (100%) compliance with the required quarterly reconciliation of the Medicaid Billing Report. (7-1-24)()

b. Notify the Department immediately if an issue is identified that may result in the provider not reconciling the Medicaid Billing Report. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized fifty dollars (\$50) each week until the provider has reconciled with Medicaid to a zero dollar (\$0) balance. (7-1-24)

~~1604. Cash Management Plan.~~ Each provider's cash management plan must equal one point five (1.5) times the monthly payroll cycle amount and can be forms of liquid cash and lines of credit. For example, if a provider's current payroll minimum has averaged one hundred thousand dollars (\$100,000) per payroll cycle, the provider would be required to have one hundred fifty thousand dollars (\$150,000) in a cash management plan. The Department must be on the notification list if any lines of credit are decreased in the amount accessible or terminated. The expectation is to provide a seamless payroll cycle to the participant, without loss of pay to their employees. (7-1-24)

~~3143. FISCAL EMPLOYER AGENT~~ DUTIES AND RESPONSIBILITIES (FEA): REPORTS.

~~01. Account Summary Statements.~~ This report provides an overview of each participant account and includes the services accessed and the remaining dollar amount in the budget as well as information on how to read the report. In addition to ~~the provider~~ providing this monthly report ~~each month~~, a participant may request this report for a specified timeframe. Each month, the provider must at the participant's preference mail a hard copy of the report to each participant ~~and also~~ or make the report available on a secure website ~~for those who prefer to access the information electronically~~. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (3-17-22)()

a. Report Format: ~~The provider must provide the account summary statement in~~ Microsoft Excel. (3-17-22)()

b. Report Due Date: ~~The provider must post the account summary statement by t~~ The 10th day of each month. (3-17-22)()

~~02. Medicaid Billing Report.~~ This report provides a detailed breakdown of ~~community support worker~~ CSW services rendered by service date per employee, per employer. Each line on this report must provide, at a minimum, the following information: employee name, ~~employee~~ and ID number, hours worked, period start, and period end, pay rate, service date, check number, ~~check~~ and date, participant's name, participant's date of birth, participant's ID number, service code, taxes, and billing amount. This report collects information based on the timeframe specified by the user. The provider must generate the report after every payroll and post it on a secure

SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~
(3-17-22)()

a. Report Format: ~~The provider must provide the Medicaid Billing Report in~~ Microsoft Excel.
(3-17-22)()

b. ~~Report Due Date: The provider must post the Medicaid Billing Report by t~~The 10th day of each
month. (3-17-22)()

03. Demographic Report. This report provides general client demographics in the region and the employee count per participant for each participant in the database. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~
(3-17-22)()

a. Report Format: ~~The provider must provide the demographic report in~~ Microsoft Excel.
(3-17-22)()

b. Report Due Date: ~~The provider must post the demographic report by t~~The 10th day of each month.
(3-17-22)()

04. Criminal History Background Check Report. This report provides a breakdown, by participant, of which employees the participant waived the background check, which employees passed or failed the background check, the ~~criminal history background check~~ reference number, and the date the background check was submitted. This report does not include ~~support broker SBs~~. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~
(3-17-22)()

a. Report Format: ~~The provider must provide the criminal history report in~~ Microsoft Word, Microsoft Excel, or PDF.
(3-17-22)()

b. Report Due Date: ~~The provider must post the criminal history report by t~~The 10th day of each
month. (3-17-22)()

05. Medicaid Billing Report. This report provides a list and count of the unduplicated participants and expenditures by services code based on the time frame specified by the user. The provider must generate the report after every payroll and post it on a SFTP site. Additionally, the provider must provide a quarterly Medicaid Billing Report that can be reconciled quarterly and work with the Department to reconcile the annual report. (3-17-22)

a. Report Format: ~~The provider must provide the Medicaid Billing Report in~~ Microsoft Excel.
(3-17-22)()

b. Report Due Date: ~~The provider must post the Medicaid Billing Report by~~ 10th day of each month.
(3-17-22)()

06. Complaint and Resolution Summary Report. The provider must analyze complaints received on a quarterly basis to determine the quality of services to participants and identify any corrective actions and program improvements needed and implemented. The provider must post the report on a secure SFTP site for Department review.
(3-17-22)

a. Report Format: ~~The provider must provide the complaint and resolution summary report in~~ Microsoft Word, Microsoft Excel, or PDF.
(3-17-22)()

b. Report Due Date: ~~The provider must post the complaint and resolution summary report by t~~The 10th day of the month following the end of each annual quarter.
(3-17-22)()

07. Customer Satisfaction Survey Report. The provider must provide a comprehensive report summarizing the results of the customer satisfaction survey completed by each participant.
(3-17-22)

a. Report Format: ~~The provider must provide the customer satisfaction survey report in~~ Microsoft Word, Microsoft Excel, or PDF. (3-17-22)()

b. Report Due Date: ~~The provider must post the customer satisfaction survey report by~~ December 1st of each year. (3-17-22)()

08. Quarterly Financial Statements. The provider must provide the Department a quarterly balance sheet and income statement that shows the provider's quarterly financial status and cash management plan cash reserve. (3-17-22)

a. Report Format: ~~The provider must provide the quarterly balance sheet and income statement in~~ Microsoft Word, Microsoft Excel, or PDF. (3-17-22)()

b. Report Due Date: ~~The provider must provide the quarterly balance sheet and income statement on t~~ The 25th day of the month following the end of each annual quarter. (3-17-22)()

3124. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PAYMENT REQUIREMENTS.

01. Requirement to Accept a Per Member Per Month (PMPM) Payment. The Department will pay, and the provider must accept a ~~per member per month~~ (PMPM) payment that covers a comprehensive set of ~~fiscal employer agent~~ FEA services. The Department will set allowable reimbursement rates for PMPM based on a methodology approved by CMS in the Adult DD HCBS Waiver. The provider can only bill the PMPM rate for the months services are actually provided for participants, The provider must provide transition, training, and closeout services during the active agreement, at no additional cost to the Department. (3-17-22)()

02. PMPM Payment Process Requirements. The ~~payment~~ (PMPM) payment must include all administrative costs, travel, transition, training, and closeout services. The Department will not pay for participants who do not have a support and spending plan an SSP. For the purposes of PMPM payment, one (1) month must include all payroll batch dates within that specific calendar month. (3-17-22)()

03. Requirement to Complete a Readiness Review. The provider must complete a readiness review prior to billing for services. (3-17-22)()

3135. TERMINATION OF FISCAL EMPLOYER AGENT (FEA) PROVIDER AGREEMENTS.

01. Termination of the Provider Agreement. The following must occur iIn the event of termination of ~~the a~~ provider agreement, the provider must: (3-17-22)()

a01. Continuation of Services. ~~The provider must ensure~~ Ensure continuation of services to participants for the period in which a ~~Per Member per Month~~ (PMPM) payment has been made, and submit the information, reports and records, including the Medicaid Billing Report (~~reconciliation~~) as specified in ~~Section 310~~ of these rules. (3-17-22)()

b02. Advanced Notice. ~~The provider must p~~ Provide to the Department a written notice ninety (90) days in advance and the change notification must occur at the end of the next calendar quarter. (3-17-22)()

023. Termination of Service ~~to Participant~~. ~~In the event of termination of the provider agreement, the provider must p~~ Provide to the participant a written notice ninety (90) days in advance. The change notification must occur at the end of the next calendar quarter. (3-17-22)()

3146. REMEDIES TO NONPERFORMANCE OF A FISCAL EMPLOYER AGENT (FEA) SERVICE PROVIDER.

01. Remedial Action. If any of the services do not comply with the performance metrics under ~~Section 310~~ of these rules, the Department will consult with the provider and may, at its sole discretion, require any of the

following remedial actions, taking into account the scope and severity of the noncompliance, compliance history, ~~the number of noncompliances~~, the integrity of the program, and the potential risk to participants. (3-17-22)()

a. Require the provider to take corrective action to ensure that performance meets the performance metrics under Section 310 of these rules; (3-17-22)

b. Reduce payment to reflect the reduced value of services received; (3-17-22)

c. Require the provider to subcontract all or part of the service at no additional cost to the Department; (3-17-22)
or

d. Terminate the provider agreement with notice. (3-17-22)

02. Direct Monetary Action. If any of the performance metrics under Section 310 of these rules are not met, the Department will enforce a fifty dollar (\$50) a week penalty for each performance metric not met. The penalty will be captured prior to any payment from the Department to the provider. (3-17-22)

~~3157~~. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.14 – RULES GOVERNING HOSPITALS

DOCKET NO. 16-0314-2401 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 56-202, Idaho Code, and 39-1307.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Hospital licensing requirements exist in Title 39 Chapter 13 of Idaho Code and IDAPA 16.03.14. To be eligible for funding from federal payors hospitals must also be certified through The Centers for Medicare and Medicaid Services (CMS). The certification process is comprehensive and requires an on-site survey to ensure compliance. Additionally, the health and safety standards for certification mirror state licensure requirements as described in 16.03.14. Given this duplication, the department will pursue a legislative proposal in 2025 to consolidate the licensing process, using the CMS certification standards as the benchmark for obtaining a hospital license.

The proposal will incorporate by reference The Code of Federal Regulations (CFR). It establishes that a certified hospital is also approved as meeting standards for licensing by the State of Idaho. Providers will be required to follow only one set of rules and can obtain both certification and licensure in one single process. Hospitals may still elect to have a CMS approved accreditation organization, or the department determine compliance with CFRs.

State specific standards, such as building design and construction guidelines, background check requirements, and licensure enforcement actions have also been incorporated into this revision or already exist elsewhere in code. Pending legislative approval this bill will repeal chapter 16.03.14, as the amended statute will contain all the necessary regulations to ensure the health and safety of the public.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Fees will not be increased by the elimination of this chapter.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will not be an impact to the general fund greater than \$10,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted as this is a repeal of the chapter and negotiated rulemaking is not necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25th, 2024.

DATED this 24th day of July, 2024.

Alex J. Adams, PharmD, MPH
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IDAPA 16.0314 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.